

EPA Region 5 Records Ctr.

258734

C.A. No. 91-CV578-JLF

The United States claims that all answers to its Requests for Admission are due in 10 days. Rule 36 of the Federal Rules of Civil Procedure provides for 30 days. At the February 25, 1992 Status Conference, when the United States expressed concern about having to wait another 30 days for answers to its discovery, the Defendants agreed to answer previously promulgated discovery relevant to Phase I, as defined in the Case Management Order, within 10 days. Only questions 1-5, 78, 32, 38-39 and 48 somewhat resemble previously propounded discovery and are subject to the agreement. Furthermore, the

United States waited five weeks after the February 25, 1992 conference to serve the discovery and are estopped from claiming any prejudice.

ANSWERS

1. Admit that Answering Defendant received a general notice letter and request for information relating to the site from U.S. EPA dated November 28, 1989.

ANSWER: Admitted.

2. Admit that the document attached as Exhibit A is a true and accurate copy of the November 28, 1989 letter (excluding attachments) referred to in Request for Admission 1.

ANSWER: Admitted.

3. Admit that Answering Defendant knew that there would be a meeting in Chicago on December 18, 1989 relating to the Site, which meeting was announced in the November 28, 1989 letter referred to in Request for Admission 1.

ANSWER: Admitted.

4. Admit Answering Defendant attended a meeting with U.S. EPA relating to the Site in Chicago on December 18, 1989.

ANSWER: Admitted.

5. Admit that a timetable for future Site events, including the anticipated date of the release of U.S. EPA's proposed remedial action plan for the Site and public comment period on the proposed plan, was discussed at the December 18, 1989 meeting.

ANSWER: St. Louis Lead Recyclers admits that a general schedule of events was announced but after reasonable inquiry lacks information necessary to enable it to admit to the specificity of the schedule.

6. Admit that representatives of U.S. EPA stated at the December 18, 1989 meeting that U.S. EPA expected to release its proposed plan for remedial action at the Site on January 10, 1990.

ANSWER: Denied.

7. Admit that NL Industries, Inc., performed a Remedial Investigation and Feasibility Study for the Site ("RI/FS") between 1985 and 1990, subject to U.S. EPA oversight, pursuant to a 1985 Administrative Order on Consent.

ANSWER: St. Louis Lead Recyclers admits that NL Industries performed activities intended to result in final RI/FS reports, but denies that it was given the opportunity to complete the RI/FS.

8. Admit that on January 10, 1990, U.S. EPA approved the FS, with modifications.

ANSWER: St. Louis Lead Recyclers admits that U.S. EPA purports to have approved the FS in a document dated January 10, 1990, but denies that EPA's response to the FS in fact constitutes an approval.

9. Admit that U.S. EPA provided the FS for the Site to the public for review and comment in accordance with the National Contingency Plan ("NCP"), 40 C.F.R. § 300.67(d) (1989).

ANSWER: Denied.

10. Admit that U.S. EPA provided at least 21 calendar days for submission of comments on the FS for the Site, in accordance with the NCP, 40 C.F.R. § 300.67(d) (1989).

ANSWER: Denied.

11. Admit that the comment period referred to in the above Request for Admission preceded U.S. EPA's March 30, 1990 Record of Decision for the Site, in accordance with the NCP, 40 C.F.R. § 200.67(d) [sic] (1989).

ANSWER: Denied.

12. Admit U.S. EPA published a notice and brief description of the proposed plan in the Granite City Journal on Wednesday, January 10, 1990.

ANSWER: Admitted.

13. Admit that the document attached as Exhibit B is a true and accurate copy of the newspaper article published in the Granite City Journal on Wednesday, January 10, 1990.

ANSWER: Admitted.

14. Admit U.S. EPA published a notice and brief description of the proposed plan in the Granite City Press-Record on Thursday, January 11, 1990.

ANSWER: Admitted.

15. Admit that the document attached as Exhibit C is a true and accurate copy of the newspaper article published in the Granite City Press-Record on Thursday, January 11, 1990.

ANSWER: Admitted.

16. Admit that the Administrative Record for the Site was made available to the public at the Granite City Library, 2001 Delmar Avenue, Granite City, Illinois 62040, in accordance with Section 113(k)(1) of CERCLA, 42 U.S.C. § 9613(k) (1).

ANSWER: Denied.

17. Admit that the Administrative Record for the Site was made available to the public at the Granite City Library, 2001 Delmar Avenue, Granite City, Illinois 62040, in accordance with Section 117(d) of CERCLA, 42 U.S.C. § 9617(d).

ANSWER: Denied.

18. Admit that U.S. EPA published notice and brief analysis of the proposed plan for the Site in accordance with Section 117(a)(1) of CERCLA, 42 U.S.C. § 9617(a)(1).

ANSWER: Denied.

19. Admit that U.S. EPA provided a brief analysis of the proposed plan for the Site and the alternative plans considered in accordance with Section 113(k)(2)(8)(i) of CERCLA, 42 U.S.C. § 9613(k)(2)(8)(i).

ANSWER: Denied.

20. Admit that U.S. EPA published notice and brief analysis of the proposed plan for the Site in accordance with the National Contingency Plan ("NCP"), 40 C.F.R. § 300.430(f)(3)(i)(A) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

ANSWER: Denied.

21. Admit that U.S. EPA published the notice and brief analysis of the proposed plan for the Site referred to in Request for Admission 20 in a major local newspaper of general circulation, in accordance with Section 117(d) of CERCLA, 42 U.S.C. § 9617(d).

ANSWER: Denied.

22. Admit that U.S. EPA published the notice and brief analysis of the proposed plan for the Site referred to in Request for Admission 20 in a major local newspaper of general

circulations in accordance with the NCP, 40 C.F.R.

§ 300.430(f)(3)(i)(A) (1990), 55 Fed. Reg. 8,851 (March 8, 1990).

ANSWER: Denied.

23. Admit that U.S. EPA made the proposed plan for the Site available to the public in accordance with Section 117(a) (1) of CERCLA, 42 U.S.C. § 9617(a) (1).

ANSWER: Denied.

24. Admit that U.S. EPA made the proposed plan for the Site available to the public in accordance with the NCP, 40 C.F.R. § 40.430(f)(3)(i)(8) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

ANSWER: Denied.

25. Admit that the notice and brief analysis referred to in Request for Admission 20 included sufficient information necessary to provide a reasonable explanation of the proposed plan and alternative proposal is considered in accordance with Section 117(a) of CERCLA, 42 U.S.C. § 9617(a).

ANSWER: Denied.

26. Admit that U.S. EPA provided a reasonable opportunity for submission of written and oral comments on the proposed plan for the Site in accordance with Section 117(a)(2) of CERCLA, 42 § U.S.C. 9617(a)(2).

ANSWER: Denied.

27. Admit that U.S. EPA provided a reasonable opportunity to comment and provided information regarding the proposed plan for the Site in accordance with Section 113(k)(2)(8)(ii) of CERCLA, 42 § U.S.C. 9617(a)(2).

ANSWER: Denied.

28. Admit that U.S. EPA provided a reasonable opportunity for submission of written and oral comments on the proposed plan and the supporting analysis and information located in the information repository, including the RI/FS for the Site in accordance with the NCP, 40 C.F.R. § 300.430(f)(3)(i)(C) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

ANSWER: Denied.

29. Admit that the comment period referred to in the previous Request for Admission was not less than 30 days in

accordance with the NCP, NCP, 40 C.F.R. § 300.430(f)(3)(i)(C) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

ANSWER: Denied.

30. Admit that U.S. EPA provided an opportunity for a public meeting near the Site regarding the proposed plan for the Site in accordance with Section 117(a) (2) of CERCLA, 42 U.S.C. § 9617(a)(2).

ANSWER: Denied.

31. Admit that U.S. EPA satisfied Section 113(k)(2)(8)(iii) of CERCLA, 42 U.S.C. § 9613(k)(2)(8)(iii), by providing the opportunity for a public meeting near the Site referred to in Request for Admission 30.

ANSWER: Denied.

32. Admit Answering Defendant attended a public meeting on the proposed remedial action plan for the Site which meeting was held by U.S. EPA in Granite City on February 8, 1990.

ANSWER: Denied.

33. Admit that the meeting referred to the previous Request for Admission satisfied U.S. EPA's duty for providing a meeting under Section 117(a)(2) of CERCLA, 42 U.S.C. 9617(a)(2).

ANSWER: Denied.

34. Admit that U.S. EPA held a meeting in Chicago on March 9, 1990 concerning the proposed remedial action plan for the Site.

ANSWER: St. Louis Lead Recyclers admits a meeting was held on March 9, 1990 in Chicago at the request of NL Industries, but denies all other allegations of the request.

35. Admit that the meeting referred to the previous Request for Admission satisfied U.S. EPA's duty for providing a meeting under Section 117(a)(2) of CERCLA, 42 U.S.C. 9617(a)(2).

ANSWER: Denied.

36. Admit that Answering Defendant was invited to attend the meeting referred to in Request for Admission 34.

ANSWER: Denied.

37. Admit that Answering Defendant, or a representative of the Answering Defendant, attended the meeting referred to in Request for Admission 34.

ANSWER: Denied.

38. Admit that after consideration of the RI/FS and the public comments received on the proposed plan, and based upon U.S. EPA's full administrative record, U.S. EPA selected a remedial action to address contamination at the Site.

ANSWER: St. Louis Lead Recyclers admits that U.S. EPA selected a remedial action and alleged that it was necessary to address contamination at the Site, but denies that such a remedial action could have been selected after consideration of the RI/FS and the public comments and based upon U.S. EPA's full administrative record.

39. Admit that on March 30, 1990, the U.S. EPA Regional Administrator for Region V signed a Record of Decision ("ROD") which sets forth U.S. EPA's decision on the remedy for the Site.

ANSWER: St. Louis Lead Recyclers admits that there exists a Record of Decision of the referenced date, but denies all other allegations of the request.

40. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) constitutes a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations, in accordance with Section 113(k)(2)(8)(iv).

ANSWER: Denied.

41. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) provide a statement of the basis and purpose of the selected action for the Site in accordance with Section 113(k)(2)(8)(v).

ANSWER: Denied.

42. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) constitutes a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations, in accordance with Section 117(b).

ANSWER: Denied.

43. Admit the selected remedy for the Site in the ROD is protective of public health.

ANSWER: Denied.

44. Admit the selected remedy for the Site in the ROD is protective of public welfare.

ANSWER: Denied.

45. Admit the selected remedy for the Site in the ROD is protective of the environment.

ANSWER: Denied.

46. Admit the selected remedy for the Site in the ROD is cost effective.

ANSWER: Denied.

47. Admit the selected remedy for the Site in the ROD is consistent with the NCP, 40 C.F.R. Part 300 (1989).

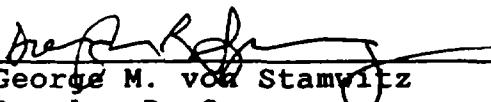
ANSWER: Denied.

48. Admit the State of Illinois concurred in the remedial action for the Site set forth in the ROD.

ANSWER: St. Louis Lead Recyclers admits that a letter exists from the Illinois Environmental Protection Agency concurring in the remedial action set forth in the Record of Decision, but denies all other allegations of the request.

Submitted this 13th day of April, 1992.

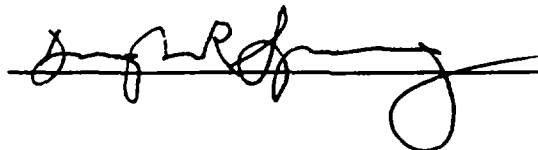
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Certificate of Service

The undersigned hereby certifies that a copy of the foregoing was mailed, postage prepaid, this 13th day of April, 1992, to all parties listed on the attached service list.



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